

Appl. No. 10/828,699
Amr. dated September 11, 2006
Reply to Office Action of June 9, 2006

REMARKS

Applicants have carefully reviewed the Office Action dated June 9, 2006. Applicants respectfully traverse all objections, rejections, and assertions made by the Examiner. With this amendment, claims 1, 9, 12, 20, 23, and 24 are amended. No new matter is added. Claims 1-24 remain pending.

Claims Rejection under 35 USC § 102

Claims 1-6, 8, 12-17, 19, 23 and 24 are rejected under 35 U.S.C. §102(e) as being anticipated by Grayzel et al. in U.S. Patent No. 6,942,680. Regarding claims 1-6 and 8, claim 1 is amended to recite that the balloon has a first inflated configuration and a second non-inflated configuration, and that the balloon has a plurality of wings formed therein when in the second configuration. Grayzel et al. do not teach or disclose this limitation and, given that the Grayzel et al. teach the use of stiffening members on a balloon catheter to aid in the uniform expansion of the balloon at the target site, there would be no reasonable suggestion that there would be any reason to modify the Grayzel et al. device to include the claimed structural configuration. In light of this amendment, Applicants respectfully submit that claim 1 is patentable over Grayzel et al. Because claims 2-6 and 8 depend from claim 1, they are also patentable based on this amendment and because they add significant elements to distinguish them further from the art.

Regarding claims 12-17 and 19, claim 12 is similarly amended to recite that the balloon has a first inflated configuration and a second non-inflated configuration, and that the balloon has a plurality of wings formed therein when in the second configuration. As indicated above, Grayzel et al. do not teach or suggest this limitation. Accordingly, claim 12 as well as claims 13-17 and 19 depending therefrom are believed to be in condition for allowance.

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Regarding claims 23 and 24, these claims are similarly amended to recite that the balloon has a first inflated configuration and a second non-inflated configuration, and that the balloon has a plurality of wings formed therein when in the second configuration. As indicated above, Grayzel et al. do not teach or suggest this limitation. Accordingly, claims 23 and 24 are believed to be in condition for allowance.

Claims 1, 6, 7, 12, 17, 18, 23 and 24 are rejected under 35 U.S.C. §102(b) as being anticipated by Bradshaw in U.S. Patent No. 6,450,988. As indicated above, independent claims 1, 12, 23, and 24 are all amended to recite that the balloon has a first inflated configuration and a second non-inflated configuration, and that the balloon has a plurality of wings formed therein when in the second configuration. Just like Grayzel et al., Bradshaw does not teach or suggest this limitation. Accordingly, claims 1, 12, 23, and 24 are believed to be patentable over Bradshaw. Because claims 6 and 7 depend from claim 1 and because claims 17-18 depend from claim 12, they are also patentable based on this distinction and because they add significant elements to distinguish them further from the art.

Claims 1-3, 5, 12-14, 16, 23 and 24 are rejected under 35 U.S.C. §102(b) as being anticipated by Lary in U.S. Patent No. 6,306,151. Regarding claims 1-3 and 5, claim 1 recites that the one or more cutting members each include a traction region that is configured to improve traction between the balloon and a target site. The Examiner, relying on the definition of "traction" as recited in Webster's dictionary, indicated that any region on the cutting member that contacts and engages in frictional movement with the lesion is a traction region. We respectfully disagree with this interpretation.

MPEP §2111 states that a claim term must be given the "broadest reasonable interpretation consistent with the specification." MPEP §211 citing *In re Hyatt*, 211 F.3d 1367

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(Fed. Cir. 2000). In this case, the specification states that the "traction regions" of the balloon improve the traction between the cutting members (relative to other cutting members that do not have a traction region) and the target site. See, for example, page 3, lines 21-23. Thus, the specification indicates that traction, as recited in the claims, means the traction created by the traction region of the cutting member and that this traction is something more or different from the traction created by other "cutting members" lacking a traction region. Consequently, the Examiner's assertion that any region on essentially any cutting member that contacts and engages in frictional movement with the lesion is a traction region is not consistent with the specification.

In view of these comments, Applicants respectfully submit that Lary does not teach or suggest one or more cutting members that each include a traction region as recited in claim 1, a cutting blade including means for cutting and means for gripping as recited in claim 12, a cutting blade with an uneven traction surface that is configured to improve the traction between the balloon and a target site as recited in claim 23, or means for improving traction between the balloon and the intravascular lesion as recited in claim 24. Because of this, each of these claims as well as those claims depending therefrom are believed to be patentable over Lary.

Claims 12, 20-22 are rejected under 35 U.S.C. §102(b) as being anticipated by Vigil et al. in U.S. Patent No. 5,336,234. Please note that claim 20 is amended into independent form. Regarding claim 12, please note that as described above, the word "traction", as recited in claim 12, cannot be reasonably interpreted in the manner suggested by the Examiner. Thus, Applicants respectfully submit that Vigil et al. cannot anticipate claim 12 absent a teaching or suggestion of a cutting blade that includes means for cutting and means for gripping thereon as recited in claim

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12. Vigil et al. do not have such a teaching or suggestion. Accordingly, Applicants respectfully submit that claim 12 is patentable over Vigil et al.

Regarding claims 20-22, claim 20 similarly recites a cutting blade that includes means for cutting and means for gripping thereon, which is not taught or suggested by Vigil et al. Furthermore, claim 20 recites a proximally-extending connector wire and a distally-extending connector wire that are both attached to the catheter shaft. While Figure 4 of Vigil et al. show a proximally-extending strip 46 on the balloon, Vigil et al. do not teach or suggest both a proximal-extending connector wire and a distally-extending connector wire that are both attached to the catheter shaft. Because of this distinction, Applicants respectfully submit that claim 20 is patentable over Vigil et al. Because claims 21-22 depend from claim 20, they are also patentable based on this distinction and because they add significant elements to distinguish them further from the art.

Claims Rejection under 35 USC § 103

Claims 1 and 9-11 are rejected under 35 U.S.C. §103(a) as being unpatentable over Vigil et al. in view of Lary. Please note that claim 9 is amended into independent form. Regarding claim 1, as indicated above, claim 1 is believed to be patentable over both Vigil et al. and Lary, individually. Combining these references does not cure this deficiency. Therefore, Applicants respectfully submit that claim 1 is patentable over the combination of these references.

Regarding claims 9-11, claim 9 recites cutting members that each include a proximally-extending connector wire and a distally-extending connector wire that are both attached to the shaft. Neither Vigil et al. nor Lary teach or suggest this limitation. Accordingly, claim 9 is believed to be patentable over the combination of Vigil et al. and Lary. Because claims 10-11

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depend from claim 9, they are also patentable based on this distinction and because they add significant elements to distinguish them further from the art.

Double Patenting

Claims 1-24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over:

claims 1-19 of copending Application No. 10/614,955,
claims 1-35 of copending Application No. 10/828,572,
claims 1-20 of copending Application No. 10/447,766,
claims 1-29 of copending Application No. 10/987,011, or
claims 1-34 of copending Application No. 10/828,699.

Regarding Application No. 10/614,955, Applicants believe that the Examiner may have made a typographical error because Application No. 10/614,955 does not appear to pertain to Applicants' claimed invention and, indeed, it contains only 10 claims (and not at least 19). Therefore, Applicants respectfully request the withdrawal of this rejection.

If, however, the Examiner intended to use Application No. 10/641,955 in support of this rejection, please note that all the currently pending claims recite a feature that is not recited in claims 1-19 of Application No. 10/641,955. For example, independent claims 1 and 9 each recite that the one or more cutting members each include a traction region that is configured to improve traction between the balloon and a target site. Independent claims 12 and 20 each recite means for cutting and means for gripping on the cutting blade. Independent claim 23 recites the cutting blade including an uneven traction surface. Independent claim 24 recites means for improving traction between the balloon and the intravascular lesion. While Application No. 10/641,955 does claim medical devices such as balloon catheters, none of the claims therein are

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directed to the features mentioned above. Accordingly, Applicants respectfully submit that this provisional obviousness-type double patenting rejection is improper and should be withdrawn in due course.

Regarding Application Nos. 10/828,572 and 10/987,011, Applicants respond to this rejection by enclosing herewith a terminal disclaimer in compliance with 37 CFR 1.321(c). Although not conceding the merits of this rejection, Applicants respectfully submit that the terminal disclaimer overcomes this rejection, as such filing has no effect on patent term.

Regarding Application No. 10/447,766, Applicants note that all of the currently pending claims recite a feature that is not recited in claims 1-20 of Application No. 10/447,766. For example, independent claims 1 and 9 each recite that the one or more cutting members each include a traction region that is configured to improve traction between the balloon and a target site. Independent claims 12 and 20 each recite means for cutting and means for gripping on the cutting blade. Independent claim 23 recites that the cutting blade including an uneven traction surface. Independent claim 24 recites means for improving traction between the balloon and the intravascular lesion. While Application No. 10/447,766 does claim medical devices such as balloon catheters, none of the claims therein are directed to the features mentioned above. Accordingly, Applicants respectfully submit that this provisional obviousness-type double patenting rejection is improper and should be withdrawn in due course.

Regarding Application No. 10/828,699, please note that this application is, in fact, the same application that is currently being prosecuted. Accordingly, this rejection is not proper and should be withdrawn in due course.

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Conclusion

Reexamination and reconsideration are respectfully requested. It is respectfully submitted that all pending claims are now in condition for allowance. Issuance of a Notice of Allowance in due course is requested. If a telephone conference might be of assistance, please contact the undersigned attorney at (612) 677-9050.

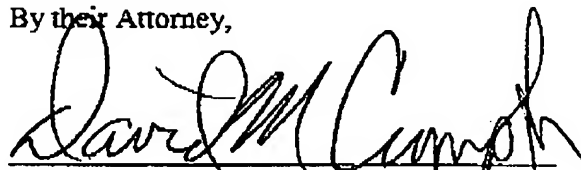
Respectfully submitted,

Karen M. Cheves et al.

By their Attorney,

Date: _____

9/11/06



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